

Does the disclaimer have to appear on ALL printed materials or campaign items?

No. The disclaimer is not required on bumper stickers, pins, buttons, pens, and similar small items where a disclaimer cannot be conveniently printed. The disclaimer is not required on wearing apparel or on committee checks and receipts. Certain communications (direct mailings of 100 or less similar pieces of mail, or communications by the PAC of a corporation or labor union requesting contributions from stockholders or labor union members) are not required to contain disclaimers.

What are some examples of political materials and literature requiring disclaimers?

Newspaper advertisements, billboards, signs, posters, **yard signs**, (whether homemade or commercially printed), portable billboards, brochures, leaflets, circulars, letterheads and direct mail pieces sent to more than 100 persons.

Is there a penalty for circulating or publishing literature or other material concerning a candidate without the required disclaimer?

Yes. The penalty is a Class A misdemeanor, punishable by up to a \$5,000 fine, not more than one (1) year imprisonment, or both. (IC 3-14-1-3)

What is the proper procedure to report violations for circulating or publishing materials without a disclaimer?

You must file a written complaint with the appropriate county election board or prosecuting attorney.

May political signs be posted on utility poles or public property?

Political signs may not be posted or placed on **ANY** other person's property, including a highway right-of-way and on utility poles, **without the property owner's permission**. Placing political signs with the approval of the property owner may be subject to local zoning regulations. **Ask your local plan commission for more information.**

An unauthorized sign placed in a highway right-of-way is a public nuisance. The sign may be removed only by the authority having jurisdiction over the highway. (IC 9-21-4-6) Contact the appropriate office (the city or town street department, county highway department or state department of transportation) for assistance.

Inquiries regarding posting political signs and materials on other public property can be directed to the authority having control over the public property, such as the town council, mayor, or the county commissioners' office. Except in voter registration offices, there is no state law that prohibits the display of political signs or literature on public property. However, if political signs or literature are displayed for one candidate or party, then all candidates and parties have the same right to display signs or literature on the public property.

Who has the authority to remove or confiscate materials and literature without a disclaimer?

Only appropriate law enforcement authorities acting under proper legal authority.

Is there a penalty for removing political signs without authority to do so?

Removing signs without the authority to do so may be criminal conversion. (IC 35-43-4-3). *Buzzell v. State*, 636 N.E.2d 158 (1994) Consult your personal attorney if you need information.

**Political Signs
And
"Disclaimer"
Requirements
For Political Literature
And Advertisements**



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This brochure discusses requirements governing individuals, organizations, or committees who purchase advertisement time or space or circulate or publish material in support of or in opposition to a candidate, a political party, or a public question. The information in this brochure is based on Indiana law as of May 2002. Where your legal rights are involved, do not rely on this brochure. Instead, review the law yourself or consult your attorney.

WHAT is a “disclaimer”?

A disclaimer identifies **who** paid for certain political material and **whether** any candidate approves of the material if the material is paid for by someone other than the candidate.

Must political messages on radio, television, the Internet or e-mail include a disclaimer?

In general, these media are regulated by federal law, not Indiana law. For information concerning any disclaimer requirements for these messages, contact the Federal Communication Commission (FCC) at (202) 418-1440 or visit the website at www.fcc.gov.

Must political messages concerning candidates for federal offices include a disclaimer?

Disclaimers on this type of literature or material are governed by federal law. Contact the Federal Election Commission at (800) 424-9530, ext. 1 or visit the website at www.fec.gov for information.

Must political messages concerning candidates for state, local, or school board offices include a disclaimer on literature or material concerning the candidate?

All persons must print a disclaimer on literature and other material if the material clearly identifies a candidate and expressly advocates the election or defeat of a clearly identified candidate. This requirement applies to all individuals and political organizations, whether or not the organization is required to file campaign finance reports. (IC 3-9-3-1)

Must political messages concerning candidates for selection to fill a vacant office or ballot position at a party caucus include a disclaimer?

Yes. The disclaimer law applies to all caucuses. However, the material must clearly identify a candidate and expressly advocate the selection of a clearly identified candidate to fill a vacancy in an office or on the ballot, or the defeat of such a candidate.

What about precinct committeemen or state convention delegates elected at a primary?

Yes. The disclaimer law applies to all elections.

What about literature or material supporting or opposing a referendum?

A disclaimer is not required on literature or material concerning a public question. (IC 3-9-3-2.5(a)(2))

WHEN is a disclaimer required on literature or material concerning a “clearly identified” candidate?

A disclaimer is required when the name, or a photograph or drawing of the candidate appears in the material or the identity of the candidate is apparent by unambiguous reference. (IC 3-9-3-2.5)

WHERE does the disclaimer have to appear?

The disclaimer cannot be difficult to read or easily overlooked, and must be presented in a clear and conspicuous way. The disclaimer must appear on the front face of a billboard. However, if a mailing or other communication contains more than one page, the disclaimer can appear on either the front page or an inside page. The disclaimer is not required to be placed on each page of a document.

WHAT does the disclaimer have to state?

The individual, organization, or committee must include the following statement or the equivalent:

(1) If both authorized and paid for by the candidate or candidate’s committee or an agent of the committee:

Paid for by Doe for State Senate Committee

(2) If authorized by the candidate but paid for by someone other than the candidate, or the candidate’s committee agents:

Paid for by ABC PAC, or (ABC Political Party, or ABC Corporation, or ABC Labor Union, or ABC Association, or Mary Smith, voter) and authorized by Doe for Sheriff Committee.

(3) If not authorized or paid for by the candidate, the candidate’s committee or its agents:

Paid for by John Doe, Mary Parker and Bill Jones, and not authorized by a candidate or candidate’s committee.

(4) If a regular party committee distributes a slate card, or sample ballot with three or more candidates listed; campaign materials such as handbills, posters, and brochures to be used by political party volunteers; materials distributed by party volunteers as part of a get-out-the-vote drive:

Paid for by Tecumseh County ABC Party Committee.

(5) If a political committee (other than a candidate’s committee) solicits contributions from the public:

Paid for by Committee for Good Government PAC.

Must a disclaimer appear in all literature and advertisements soliciting contributions?

Unless the solicitations would be otherwise exempted under state law, a communication soliciting campaign contributions must include the same disclaimer required for other political advertisements and literature.

Additionally, a communication must include a statement required by the Internal Revenue Service for those committees having gross receipts over \$100,000 in a taxable year. The additional statement required by the Internal Revenue Code consists of the following statement:

*Contributions or gifts to the _____
(insert the name of the committee) are not deductible as charitable contributions for federal income tax purposes.*

However, a political action committee soliciting funds to pay administrative costs is not required to include the disclaimer required by *state law* since these “administrative costs” are not “contributions” under Indiana law. (IC 3-5-2-15(e))